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By: Edward O. Meagher

Date: 2/6/02

PATENT
Docket No. 2089CON2 (203-2413CON2)

#3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : THOMAS PATRICK RYAN
TITLE : APPARATUS AND METHOD FOR SEALING AND CUTTING TISSUE
SERIAL NO. : 09/992,301
FILED : November 14, 2001
PARENT EXAMINER : GLENN DAWSON

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MAR 18 2002
OFFICE OF PETITIONS

PETITION UNDER 37 C.F.R. §1.182
TO ACCEPT OMITTED ITEM IN NON-PROVISIONAL APPLICATION

Hon. Commissioner of Patents
Washington, D.C. 20231

Dear Sir:

Pursuant to 37 C.F.R. §1.182, the inventor of the above U.S. Application Serial No. 09/992,301 hereby submits herewith:

- 1) PETITION TO ACCEPT OMITTED ITEM IN NON-PROVISIONAL APPLICATION;
- 2) the required fee of \$130.00 pursuant to (37 C.F.R. 1.17(h)); and
- 3) the Oath and Declaration of the originally-filed parent application.

On November 14, 2001, Applicant filed the above-identified continuation application claiming the benefit of priority to U.S. Patent Application Serial No. 09/591,328 filed on June 9, 2000 which, in turn, claims the benefit of priority to U.S. Patent Application Serial No. 08/925,805 filed on September 9, 1997 (now U.S. Patent No. 6,267,761). Applicant mistakenly did not include a copy of the Fig. 17 drawing page with the submission on November 14, 2001. Applicant subsequently received a Notice of Omitted Item(s) in a Non-provisional Application on December 6, 2001.

The presently-filed continuation application was intended to be a complete copy of the original, parent application filed on September 9, 1997. However, Fig. 17 was mistakenly not included with the November 14, 2001 filing papers.

Applicant respectfully submits that even though the Fig. 17 drawing page was not included with the filing papers on November 14, 2001 for the above application, the Fig. 17 drawing page is still, in fact, part of the present disclosure since the Fig. 17 drawing was included with the filing of the original parent application, namely, U.S. Application Serial No. 08/925,805 filed on September 9, 1997 (now U.S. Patent No. 6,267,761).

In view thereof, Applicant respectfully submits that the entire application including the Fig. 17 drawing page is in fact part of the present application as filed. Moreover, the present application including the Fig. 17 drawing page is still entitled to claim both the November 14, 2001 filing date as a complete application and the benefit of priority to the earliest priority date, i.e., September 9, 1997, of the original parent application, namely, U.S. Application Serial

No. 08/925,805.

In support thereof, Applicant has included a copy of the original parent application U.S. Application Serial No. 08/925,805 proving that the Fig. 17 drawing was included with the original submission on September 9, 1997 (see Exhibit A attached hereto). A copy of the original Oath and Declaration submitted with respect to U.S. Application Serial No. 08/925,805 is attached hereto as Exhibit B.

Applicant has also enclosed a check in the amount of \$130.00 pursuant to 37 C.F.R. 1.17(h) to cover the official surcharges for the Petition submitted herewith.

If the Commissioner requires any additional information or supporting documentation in order to render a decision relating to the present Petition, the Commissioner is respectfully invited to contact Applicant's attorney of record at the phone number set forth below at his earliest convenience.

Respectfully submitted,

By: _____

Edward C. Meagher
Attorney for Applicant
Reg. No. 41,189

CARTER, DELUCA, FARRELL & SCHMIDT LLP

445 Broad Hollow Road – Suite 225

Melville, New York 11747

(631) 501-5700

- Enclosures: 1) Exhibit A - Copy of parent application;
2) Exhibit B – Copy of Oath and Declaration of parent application; and
3) Check for \$130.00



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
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Washington, D.C. 20231

PL9373-QS

DECEMBER 24, 1997

PTAS

PFIZER INC.
PETER C. RICHARDSON
235 EAST 42ND STREET, 20TH FLOOR
NEW YORK, NY 10017-5755



100571937A

Handwritten signature

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, NORTH TOWER BUILDING, SUITE 10C35, WASHINGTON, D.C. 20231.

RECORDATION DATE: 09/09/1997

REEL/FRAME: 8790/0588
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

RYAN, THOMAS PATRICK

DOC DATE: 09/08/1997

ASSIGNEE:

VALLEYLAB INC
5920 LONGBOW DRIVE
BOULDER, COLORADO 80303

SERIAL NUMBER: 08925805

PATENT NUMBER:

FILING DATE:

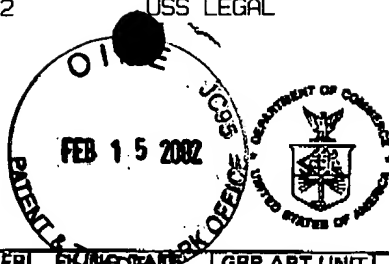
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PFIZER INC PATENT DEPT.		
PCR	AJS	MIC
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EOS	CIG	ALK
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Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
08/925,805	09/09/97	3309	\$836.00	PC9373	7	23	2

DR PETER C RICHARDSON
PFIZER INC
235 EAST 42ND STREET
NEW YORK NY 10017-5755

file

U.S.

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Application Processing Division's Customer Correction Branch within 10 days of receipt. Please provide a copy of the Filing Receipt with the changes noted thereon.

Applicant(s)

THOMAS PATRICK RYAN, FORT COLLINS, CO.

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TITLE

APPARATUS AND METHOD FOR SEALING AND CUTTING TISSUE

PRELIMINARY CLASS: 606

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PATENT DEPT.

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LCA	GCB	GNI
JLL	MEB	GXB
JIRJ	ADO	SGH
EOS	CJG	ALK
MXB	JTJ	BTC
ALP	RTR	LBL
RWA	RFS	BCZ
PCS		RMS

Atty Initial: _____

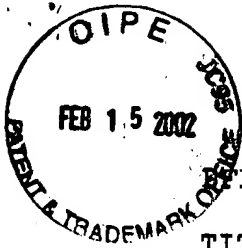
Docketed By: *PAZ*

*md*

Express Mail No. EH789008055US Docket No. PC9373 By ALP
Serial No. _____ Filing Date 9-9-97
Application of Thomas Patrick Ryan
Entitled APPARATUS AND METHOD FOR SEALING AND CUTTING TISSUE

The following, due _____ in the U.S. Patent Office, has been received there on the, date stamped hereon:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Specification <u>15</u> pages | <input type="checkbox"/> Certification 37 CFR 3.73(b) |
| <input checked="" type="checkbox"/> Claims <u>4</u> pages | <input type="checkbox"/> Notice of Appeal |
| <input checked="" type="checkbox"/> Abstract <u>1</u> pages | <input type="checkbox"/> Amendment |
| <input checked="" type="checkbox"/> Drawing(s) <u>1</u> sheets | <input type="checkbox"/> Brief (3 copies) |
| <input checked="" type="checkbox"/> Declaration with <input checked="" type="checkbox"/> Power of Attorney | <input type="checkbox"/> Letter |
| <input checked="" type="checkbox"/> Assignment & Recordation Cover Sheet | <input type="checkbox"/> Petition for Extension of Time |
| <input checked="" type="checkbox"/> Letter of Transmittal | <input type="checkbox"/> PTO-1390 (DO/EO/US) _____ pages |
| <input checked="" type="checkbox"/> USPS Certificate of Mailing | <input type="checkbox"/> Priority Document |
| <input type="checkbox"/> Disclosure Statement _____ References | <input checked="" type="checkbox"/> <u>Last Card</u> |
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| <input type="checkbox"/> Fee Address Indication Form | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Affidavit <input type="checkbox"/> Declaration <input type="checkbox"/> Oath | <input type="checkbox"/> _____ |

EXPRESS MAIL CERTIFICATE

PFIZER DOCKET: PC9373 ALP

TITLE: APPARATUS AND METHOD FOR SEALING AND CUTTING
TISSUE

APPLICANTS: THOMAS PATRICK RYAN

"Express Mail" mailing label number EH789008055US

Date of Deposit: 9-9-97

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

MICHAEL LINES

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